# California Forms & Instructions

100-WE

## This booklet contains:

Form 100-WE, Water's Edge Contract

FTB 1116, Notice of Nonrenewal of Water's-Edge Contract

FTB 1117, Request to Terminate Water's-Edge Election

FTB 2416, Schedule of Included Controlled Foreign Corporations

FTB 2424, Water's-Edge Foreign Investment Interest Offset

FTB 2426, Water's-Edge Cover Sheet

1999

Water's-Edge Booklet

Members of the Franchise Tax Board Kathleen Connell, Chair Johan Klehs, Member B. Timothy Gage, Member Taxpayers that elect to file their California return on a water's-edge basis under Revenue and Taxation Code Section 25110 must attach form FTB 2426, Water's-Edge Cover Sheet, to the front of Form 100 or Form 100S.



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## **Other Publications**

Other publications prepared by the Franchise Tax Board include:

- FTB Pub. 1038, Guide for Corporations Dissolving, Surrendering (Withdrawing) or Merging
- FTB Pub. 1050, Application and Interpretation of Public Law 86-272
- FTB Pub. 1060, Guide for Corporations Starting Business in California
- FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report
- FTB Pub. 1063, Guide for Corporations that May be Subject to the Provisions of the California Bank and Corporation Tax Law
- FTB Pub. 1071, Guidelines for Voluntary Disclosure Agreements

These publications may be obtained by writing to:

TAX FORMS REQUEST UNIT FRANCHISE TAX BOARD PO BOX 307 RANCHO CORDOVA CA 95741-0307

If you have Internet access, you may download, view, and print California tax forms and publications. Go to our website at:

www.ftb.ca.gov

## **Instructions for Taxpayers Making a Water's-Edge Election**

References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 1998, and to the California Revenue and Taxation Code (R&TC).

## Introduction

For income years beginning on or after January 1, 1988, taxpayers may elect to compute income attributable to California on the basis of a water's-edge combined report. In general, under a water's-edge election. affiliated foreign corporations are excluded from the combined report. Note: For purposes of these instructions, the word "taxpayer" means a corporation in the combined group that has a California filing requirement.

The statute allowing the taxpayer to file on a water's-edge basis does not supersede the concept of unity; it merely limits the unitary entities included in the combined report. (For a discussion of the concepts of the unitary method of taxation and its application by the State of California, get FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report.) Once the taxpaver has computed its income attributable to California on the water's-edge combined report basis, the taxpayer can either file a separate return or can elect to file a single return with the other taxpayers in the water's-edge group. (See Schedule R-7, Election to File a Unitary Taxpayers' Group Return and List of Affiliated Corporations, which is included in Schedule R, Apportionment and Allocation of Income.)

This booklet explains how the water's-edge election is made, which entities must be included in the water's-edge combined report and other key features of the law. This booklet should be used in conjunction with Form 100. California Corporation Franchise or Income Tax Return, or Form 100S, California S Corporation Franchise or Income Tax Return.

### **What's New**

## **Regulation Amendments**

Title 18 Cal. Code Reg. Sections 25111 and 25111-1 have been amended. The revised regulations permit a valid water's-edge election if there is substantial performance with the requirements for the election.

## **Return Requirements for Foreign Partnership Interests**

California conforms to the information reporting requirements for IRC Section 6038 relating to information with respect to certain foreign corporations and partnerships. The corporation should attach a copy of federal Form 8865, Information Return of U.S. Persons With Respect to Certain Foreign Partnerships, to the Form 100 if the corporation is required to file Form 8865 with the IRS for the income year. If the corporation fails to furnish this information, penalties may be imposed under R&TC Section 19141.2.

### Information Return of U.S. Taxpayers Who Have Ownership in a Foreign Corporation

For income years beginning on or after January 1, 1997, a corporation that is a California taxpayer and is required to file federal Form(s) 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, with their federal return must attach a copy(s) to the California return. The penalty for failing to include copy(s) of federal Form 5471 is \$1,000 per required form. The penalty applies to income years beginning on or after January 1, 1998.

## **Water's-Edge Combined Report**

#### **Entities Included**

For income years beginning on or after January 1, 1996, the water's-edge combined report includes only the income and apportionment factors of the members of the unitary group that meet the criteria listed below. If an entity meets any one of these criteria and is unitary, it must be included in the combined report. If an entity does not meet any of these criteria, it must be excluded from the combined report.

- 1. Any domestic international sales corporation, as defined in IRC Section 992, and any foreign sales corporation, as defined in IRC Section 922.
- 2. Any corporation, regardless of where it is incorporated, if the average of its property, payroll, and sales factors within the U.S. is 20% or more. This rule does not apply to foreign incorporated banks. R&TC Section 25128, requiring the double weighting of the sales factor, does not apply for purposes of this inclusion test. For more information, get FTB Notice 95-5.
- 3. Any bank or corporation incorporated in the U.S., more than 50% of whose stock is owned or controlled directly or indirectly by the same interests, except for corporations making an election under IRC Section 936.
- 4. Any export trade corporation as defined in IRC Section 971.
- 5. Any controlled foreign corporation (CFC), as defined in IRC Section 957, that has Subpart F income as defined in IRC Section 952. The income and apportionment factors of such corporations are included in the combined report based on the ratio of the total Subpart F income of such entity for the year to its current year earnings and profits (E&P). The ratio cannot exceed 100% or be less than 0%. If the current year E&P are zero or less, none of the income and factors of the entity are included in the combined report. Subpart F income defined in IRC Sections 955, 956,

- and 956A, is not considered in the computation.
- 6. Any corporation not described in items 1 through 5 with less than 20% of its average property, payroll, and sales in the U.S., or any foreign organized bank that has income attributable to sources within the U.S. Such entities are included in the combined report only to the extent of their U.S. located income and factors. In general, U.S. located income includes both of the following:
  - Effectively connected income (ECI) with a U.S. trade or business, or is treated as effectively connected, under the provisions of the IRC. Because the State of California is not a party to the federal tax treaties, the ECI immunity provisions of the federal tax treaties do not apply for California purposes. Any income satisfying the definition of ECI, that is excluded from federal taxable income due to a tax treaty, is included for California purposes; and
  - U.S.-sourced income that is business income described under R&TC Section 25120, regardless of whether or not such income is considered ECI for federal purposes.

For more information, see R&TC Section 25110(a) and the regulations thereunder.

## **Intercompany Transactions**

FTB Notice 89-601, dated September 20, 1989, states that the Franchise Tax Board (FTB) will issue proposed regulations prescribing the treatment of transactions between two or more entities engaged in a single unitary business. The Notice provides interim guidance for the treatment of certain intercompany transactions in water's-edge combined reports. The hearing process for these draft regulations began during 1999. If adopted, these regulations are expected to apply prospectively. The interim water's-edge treatment can be summarized as:

1. If a combined group has deferred gain or loss from intercompany transactions, a water's-edge election under R&TC Section 25111 will cause certain previously deferred gains or losses to be taxed over a 60-month period beginning with the first day of the election period. This applies only to transactions where either the transferee, the transferor, or both, are to be excluded from a combined report by reason of the water's-edge election. It does not apply if both the transferor and the transferee are included in the water's-edge combination.

 Generally, such gains or losses will be apportioned using the percentage used in the last worldwide combined report that preceded the first water's-edge year. FTB Notice 89-601 provides that the percentage in the year of the original transaction can be used in certain circumstances.

The above treatment of deferred gains and losses is applicable to intercompany transactions involving fixed assets and capitalized items only. Certain other types of intercompany transactions, including intercompany sales of inventory and intangible assets, are required to be reported under the elimination/ carryover basis method. When members of a combined group use the elimination/carryover basis method, the transferor's basis will carry over to the transferee. A subsequent water'sedge election will have no effect on the recognition of profit under this method. Any profit eliminated as a result of using this method would be recognized by the transferee when the asset is sold outside the combined reporting group.

Taxpayers may wish to review the treatment of intercompany transactions prescribed in FTB Pub. 1061 and the federal rules under Treas. Reg. Section 1.1502-13.

## **Water's-Edge Election**

#### **Contract Requirement**

To make the water's-edge election, **taxpayers** must enter into a contract with the FTB by signing and filing Form 100-WE, Water's-Edge Contract. In consideration for being allowed to file on a water's-edge basis, the taxpayer must:

- Agree to file on a water's-edge basis for a period of 84 months;
- Agree to business income treatment of dividends received from: (1) over 50% owned entities engaged in the same general line of business as the members of the water's-edge group, or (2) entities that are a significant source of supply to, or a significant purchaser of, the output of the members of the water's-edge group.
   Significant means an amount equal to 15% or more; and
- Consent to the taking of depositions from key employees or officers of the members of the water's-edge group and to the acceptance of subpoenas duces tecum requiring the reasonable production of documents.

Title 18 Cal. Code Reg. Section 25111-1 was amended to permit a valid water's-edge election when substantial performance of the requirements for entering into a water's-edge contract has occurred.

For more information, see R&TC Section 25110(b), Section 25111, and the regulations thereunder.

### **Taxpayers Covered by Election**

For the election to be effective, all affiliated taxpayers engaged in a single unitary business must file on a water's-edge basis. A taxpayer or an affiliated group of taxpayers that is engaged in more than one unitary business may make a water's-edge election with respect to any one or more of its businesses, but need not elect for all of its businesses. For example, a taxpayer engaged in two unitary businesses may elect water's-edge for one of the businesses and may remain subject to worldwide combined reporting treatment for the other businesss.

The common parent of a controlled group that files a consolidated federal return, or the common parent wherever domiciled or organized, may file an election on behalf of all members of the controlled group that are part of the water's-edge combined report group. The common parent need not be a California taxpayer.

In cases where the water's-edge election is not entered into by a common parent, each taxpayer included in the combined report must enter into a separate contract.

#### Time of Making the Contract

The contract must be entered into by all unitary taxpayers included in the original combined report at the time the original return is filed for the first income year the contract is to be effective. In addition, to make a valid election each taxpayer must be in good standing with the FTB and the California Secretary of State (SOS).

## CAUTION: The election must be made on an original return as defined in Regulation 25111(2)(1).

A copy of the original contract must be attached to all subsequent returns filed during the election period.

#### Taxpayers With Different Fiscal-Year Ends

Taxpayers engaged in a unitary business with different fiscal-year ends will make the election on each individual return. For each member of the group, the election period will begin on the first day of the income year of the last member of the water's-edge group to file its return and make the election. Each taxpayer that has an income year earlier than the last member of the group will compute its tax liability on its initial return using a hybrid worldwide/water's-edge combination method. For more information, see Title 18 Cal. Code Reg. Section 25111-1(g).

#### **Automatic Renewal**

Once the contract period starts, it will automatically renew on the anniversary date of the contract. The anniversary date of the contract is the later of the original due date of the return or the due date of the return as extended. The anniversary date is determined by the first income year of the election and does not change. The automatic renewal provision extends the 84-month period of the

contract for an additional 12 months. The contract period will automatically renew each annual anniversary date, unless the taxpayer files form FTB 1116, Notice of Nonrenewal of Water's-Edge Contract, at least 90 days prior to an anniversary date.

#### **Notice of Nonrenewal**

Form FTB 1116 prevents the automatic renewal provision from extending the contract period.

A taxpayer may file form FTB 1116 at any time during the contract period. To prevent the automatic renewal provisions, form FTB 1116 must be filed with the FTB at least 90 days prior to the anniversary date of the contract. Once form FTB 1116 is filed, the taxpayer must continue to file on a water's-edge basis until the contract period expires. Form FTB 1116 must be filed separately from any

other form.
Mail form FTB 1116 to:

FRANCHISE TAX BOARD PO BOX 1779 RANCHO CORDOVA CA 95741-1779

#### Example:

Corporation A, a calendar year taxpayer, makes a water's-edge election with its return filed October 15, 2000. The contract covers income years 1999 through 2005. If Corporation A does not file form FTB 1116 at least 90 days prior to its anniversary date on October 16, 2001, the contract automatically renews and extends the election through the 2006 income year. If Corporation A files form FTB 1116 at least 90 days prior to October 16, 2001, the contract period will end on December 31, 2005.

All members of the water's-edge group must consent to the notice of nonrenewal. Similar to the water's-edge contract, the common parent of a controlled group may file form FTB 1116 for all taxpayers in the water's-edge combined group.

#### Effect of Changes in Affiliations

In general, taxpayers are bound by any contract they enter into, or by any contract entered into by a unitary affiliate, for the entire term of the contract. For example, a bank or corporation that is subject to California tax and becomes a member of an electing water's-edge group after the group makes an election, or a unitary affiliate of an electing taxpayer that becomes subject to California tax after the election, is deemed to have consented to and is bound by the original election and contract for the remaining term of the contract. A water's-edge election is a tax attribute that carries over to the surviving entity in a reorganization or liquidation. When a taxpayer ceases to be a member of the water's-edge group, the taxpayer must continue to file on a water'sedge basis until the contract period expires. If an electing taxpayer is acquired by and is unitary with a non-electing entity or group,

the unitary non-electing entity or group must be included in the water's-edge combined report of the electing taxpayer until the water's-edge contract period expires. However, if the water's-edge taxpayer meets certain criteria, it may request termination of its water's-edge election. See Termination of Election below.

A non-electing bank or corporation that is subsequently proven to be unitary with a water's-edge group pursuant to an audit determination of the FTB is deemed to have made a water's-edge election.

Under certain circumstances, taxpayers adversely affected by the above rules may terminate their election.

When an affiliation change occurs, a statement should be attached to the return identifying which affiliates were included in the original group, the appropriate California corporation numbers, and what changes have occurred.

For more information, see Title 18 Cal. Code Reg. Section 25111-1(d)(2).

#### **Termination of Election**

A taxpayer may terminate its water's-edge election prior to the expiration of the contract period only if:

- The taxpayer is acquired by an unrelated, non-electing entity or group of entities that has larger equity capital than the taxpayer;
- The FTB grants the taxpayer written permission to terminate the election. A taxpayer may request permission to change its election at any time. In general, the request will be granted only if the taxpayer demonstrates to the satisfaction of the FTB that filing on a water's-edge basis instead of a worldwide basis results in a significant disadvantage to the taxpayer, and that such disadvantage is the result of an extraordinary and significant event that could not have been reasonably anticipated at the time the election was originally made.

In general, the effective date of any request that is granted by the FTB will be for the income year immediately following the income year in which the qualifying event occurs. Form FTB 1117, Request to Terminate Water's-Edge Election, must be filed no later than the due date of the return, including extension, for the income year the termination is effective.

A taxpayer must timely file form FTB 1117 separately from any other form to terminate its water's-edge election. Mail form FTB 1117 to:

FRANCHISE TAX BOARD PO BOX 1779 RANCHO CORDOVA CA 95741-1779 In certain cases the filing of Form 1117 is not required. If:

- The taxpayer's election was invalidated by the FTB; and
- The taxpaver was acquired by a nonelecting, non-affiliated entity and thereafter filed its returns on a worldwide basis with that entity; and
- The amended Title Cal. Code Reg. Section 25111 and Section 25111-1 cause the original water's-edge election to be considered valid.

In such cases the original water's-edge election will be deemed to have been terminated as of the date that the corporation was acquired. This provision only applies to income years ending on or before January 31, 1997.

For more information, see R&TC Section 25111 and the regulations thereunder.

## **Electronic Funds Transfer (EFT)**

Corporations that remit a bank or corporation estimated tax or extension payment in excess of \$20,000 or that have a total tax liability in excess of \$80,000 must pay through EFT. Corporations that meet the threshold must remit all payments through EFT rather than by paper check. The FTB will notify corporations that are subject to this requirement. Those that wish to participate on a voluntary basis may do so. For more information, call FTB's EFT Section at (916) 845-4025, or get FTB Pub. 3817, Electronic Funds Transfer Program Information Guide.

## **Foreign Dividend Deduction**

R&TC Section 24411 provides a 75% deduction of qualifying dividends received from corporations and included in the water'sedge return. For income years beginning on or after January 1, 1998, dividends received from both banks and corporations qualify for the water's-edge dividend deduction. A deduction of 100% is provided for dividends from certain foreign construction projects.

Both business and nonbusiness dividends qualify for the dividend deduction. The allowable business dividend deduction is determined by multiplying the total dividend deduction (business and nonbusiness) by the ratio of qualifying business dividends to total qualifying dividends. The remaining dividend deduction is the nonbusiness dividend deduction.

Intercompany dividends received within the current year by the water's-edge group should be eliminated, pursuant to R&TC Section 25106, before computing the dividend deduction.

Dividends are also subject to the provisions of R&TC Sections 24402 and 24410 prior to the application of R&TC Section 24411.

In no event will a R&TC Section 24411 deduction be allowed with respect to any portion of a dividend for which a deduction was allowed under R&TC Section 24402 or R&TC Section 24410 or which was eliminated under R&TC Section 25106.

#### **Sources of Distributions**

In general, dividends will be considered to be paid first out of current E&P and then out of accumulated E&P in reverse order of accumulation (LIFO method).

For dividends paid by an entity that is partially included in the combined report, only the portion of the dividend paid from E&P attributable to business income included in the water's-edge combined report is eligible for elimination under R&TC Section 25106. For example, assume that a dividend is paid by a corporation partially included in the water's-edge combined report to the extent of the ratio of its Subpart F income over its current year E&P (the "partial inclusion ratio"). If the dividend was paid entirely out of current year E&P, then the partial inclusion ratio for the current year should be applied to determine the portion of the dividend eligible for R&TC Section 25106 elimination. To the extent that the dividend was paid from E&P accumulated in prior years, the E&P attributable to business income included in the combined report must be determined by reference to the partial inclusion ratios for each of those years.

### Subpart F Income

Since California does not conform to IRC Subpart F provisions, Subpart F income is not treated as a deemed dividend for California purposes and is not subject to a dividend deduction. Accordingly, California does not follow the federal rules set forth in IRC Section 959 either as to the sources of distributions from an entity with Subpart F income.

### **Definitions**

## **Current year qualifying dividends**

These are dividends received by any current member of the water's-edge group from a corporation or a bank (regardless of the place of incorporation) if:

- The average of the payer's property, payroll, and sales factors within the U.S. is less than 20%; and
- More than 50% of the total combined voting power of all classes of voting stock is owned directly or indirectly by a member of the water's-edge group at the time the dividend is received.

The payer need not be in a unitary relationship with the recipient or any other member of the water's-edge group.

#### **Construction project**

A construction project is defined as an activity attributable to an addition to real property or to an alteration of land or any improvement thereto. The construction project, the location of which is not subject to the taxpayers' control, must be undertaken for an entity,

including a governmental entity, that is not affiliated with the water's-edge group.

For more information, see R&TC Section 24411 and the regulations thereunder.

#### Computation

To compute your water's-edge dividend deduction, refer to the Schedule H instructions in the Form 100 or Form 100S.

## Foreign Investment Interest Offset

R&TC Section 24344(c) provides that interest expense incurred for purposes of foreign investment is offset against the dividends deductible under R&TC Section 24411. The offset cannot be greater than the deduction allowed pursuant to R&TC Section 24411. Complete and attach form FTB 2424, Water's-Edge Foreign Investment Interest Offset, to the return. For these purposes, foreign investment means stock or other equity investment, including accumulated E&P, in a foreign entity owned by a member of the water's-edge group.

In general, the amount of interest expense incurred for purposes of foreign investment is determined by multiplying the total interest expense of the water's-edge group by the ratio of the group's total foreign investments to its total assets. However, direct tracing of interest expense to specific assets is required if:

- The underlying debt was incurred in connection with a specific property;
- The proceeds of the borrowing were actually applied to the specific property; and
- The creditor's only security is the specific property.

In addition, interest expense paid with respect to debt incurred on or after January 1, 1988, will not be considered incurred for purposes of foreign investment if the proceeds of the debt are paid into an account that is restricted to preclude its use for foreign investment and the account is not in fact used for foreign investment.

Total amounts of interest, foreign investment, and assets are reduced by any items qualifying for specific tracing before applying the allocation formula based on assets.

The offset is limited to the lesser of:

- Interest expense specifically assigned and allocated to foreign investment; or
- · The foreign dividend deduction.

For income years beginning on or after January 1, 1997, this amount is multiplied by the same percentage used to determine the foreign dividend deduction under R&TC Section 24411 (75%) to arrive at the foreign investment interest offset.

The remaining interest expense, after the amount of interest expense offset against dividends deductible under R&TC

Section 24411, is subject to the provisions of R&TC Section 24344(b).

For more information, see R&TC Section 24344(c) and the regulations thereunder and the instructions to form FTB 2424.

## Schedule of Included Controlled Foreign Corporations

R&TC Section 25110(a)(6) provides that a portion of the income and apportionment factors of any CFC (defined in IRC Section 957) that has Subpart F income, as defined in IRC Section 952, must be included in the combined report of a taxpayer making a water's-edge election. See form FTB 2416, Schedule of Included Controlled Foreign Corporations, on page 19 to compute the income and apportionment factors to be included in the combined report.

## **Key Corporation**

A key corporation must be designated if the California taxpayers elect to file a single return on a combined basis. The key corporation must be a California taxpayer and is generally either the parent corporation or the corporation with the largest value of assets in California. In addition, the key corporation should be in good standing with both the FTB and California Secretary of State. Once a corporation is designated as the key corporation, it must continue to be the key corporation as long as the water's-edge contract remains in effect and the corporation is a taxpayer in the water's-edge group.

## Example:

Corporation A, the common parent of the federal controlled group A, B, C, D, and E, is not a California taxpayer. Corporation A elects water's-edge treatment for the unitary group B, C, and E, which are all California taxpayers. Since corporation A is not a California taxpayer, then B, C, or E, depending on which has the largest value of assets in California, will be designated as the key corporation if the taxpayers file a single tax return on a combined basis.

If the key corporation is changed, a statement should be attached to the return identifying the original key corporation with its California corporation number and the new key corporation with its California corporation number.

For more information, get Schedule R-7 which is included in Schedule R.

## **Return Filing Requirements**

Any year a corporation files a return determining its California taxable income on a water's-edge basis, it is required to attach the following:

- A copy of the Form 100-WE, effective for the current year; and
- Form FTB 2426, Water's-Edge Cover Sheet.

Corporations must attach form FTB 2426 to the front of their Form 100 or Form 100S.

### Private Mailbox (PMB) Number

If you lease a mailbox from a private business rather than from the United States Postal Service, enter the box number in the special field on the tax return labeled 'PMB no."

## Records Maintenance Requirements

Any taxpayer filing on a water's-edge or worldwide basis is required to keep and maintain records and make available upon request the following:

- Any records that may be relevant to determining the correct treatment of items reported on the worldwide or water's-edge combined report for purposes of determining the income attributable to California;
- Any records that may be relevant to the treatment of items as nonbusiness or business income:
- Any records that may be relevant to determining the apportionment factors; and
- Documents and information relevant to determination of the proper attribution of income to the U.S. or foreign jurisdictions under IRC Subpart F, IRC Section 882 or other similar provisions of the IRC.

A corporation may be required to authorize an agent to act on its behalf in response to requests for information or records pursuant to R&TC Section 19504. The penalty for failure to maintain the above required records is \$10,000 for each income year for which the failure applies. In addition, if the failure continues for more than 90 days after the FTB notifies the corporation of the failure, a penalty of \$10,000 may be assessed for each additional 30-day period of continued failure. For income years beginning on or after January 1, 1996, there is no limitation to the amount of penalty that may be assessed. For more information, refer to R&TC Section 19141.6 and the regulations thereunder.

## Instructions for Completing Form 100-WE, Water's-Edge Contract

Enter the corporation name, California corporation number, and address as they appear on Form 100 or Form 100S.

Enter the name of the corporation making the election in the space provided described as elector.

Be sure to check the box if a common parent is electing on behalf of members of the controlled group included in the water's-edge combined report. If there is no common parent election, each electing member of the

water's-edge group should file its own contract, even if a single return is filed on a combined basis. For more information, see Title 18 Cal. Code Reg. Section 25111-1(c). List all taxpayers covered by the common parent's election on Side 2 of Form 100-WE.

Enter the beginning date of the water's-edge contract in the space provided. This date is generally the same as the beginning date for the income year that appears on Form 100 or Form 100S for the first year of the election. If the corporation is a member of a water's-edge combined group that has different fiscal-year ends, the contract beginning date is the beginning date of the income year of the last member of the group to file its return and make the election. For example, if one member of the water's-edge group has a January 1, 1999, to December 31, 1999, income year and the second member has an April 1, 1999, to March 31, 2000, income year, the beginning date of this water's-edge contract is April 1, 1999.

An officer of the electing corporation must sign and date the contract.

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CALIFORNIA FORM

## 1999 Water's-Edge Cover Sheet

2426

For calend	lar year 1999 or fiscal year beginning month	day	year 1999, and end	ing month	_ day	year	
	Attach this form to	the fro	ont of Form 100	or Form 10	OS.		
Co	tion and Contract Information						
Corporation	tion and Contract Information				California	corporation n	umber
		MONTH	DAY YEAR		MONTH	DAY	YEAR
THE WAT	TER'S-EDGE CONTRACT PERIOD BEGINS			AND ENDS			
	FTB 2416 FTB 2424		Form 100-WE	Copy of F 100-WE from prior election			
	THIS FORM MUST BE ATTACH	ED TO	THE FRONT OF		OR FO	RM 1005	8
Please							
Sign Here	Print or type name of signing officer				Telephone ( )		
11616	Print or type title				. ,		

## **General Information**

## **Purpose**

Use form FTB 2426 as a cover sheet whenever a corporation files a return determining its California income on a water's-edge basis.

## **General Instructions**

## Form FTB 2426 should be attached to the front of Form 100 or Form 100S.

Do not attach form FTB 1116, Notice of Nonrenewal of Water's-Edge Contract, or form FTB 1117, Request to Terminate Water's-Edge Election, to this form. Mail each of these forms separately from any other form.

For a proper election, Form 100-WE, Water's-Edge Contract, should be attached to the original return. Any taxpayer electing water's-edge must be in good standing with both the Franchise Tax Board and the California Secretary of State. Attach a copy of the applicable contract to the front of all subsequent returns filed during the contract period.

## California Corporation Number for Unitary Group Single Return

Enter the California corporation number of the key corporation designated in the election to file a Unitary Group Single Return.

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YEAR

CALIFORNIA FORM

## 1999 Water's-Edge Contract

Attac	h this form to the back of Form 100 or For	m 100S.							
Corpo	ration name			Califo	rnia co	rporation	numbe	er	
Numb	er and street						PMB n	0.	
City			State			ZIP	Code		
			OGE CONTRACT						
nerei	Pursuant to Revenue and Taxation Con and in the R&TC, the parties agree a			ons ar	nd co	ndition	s set	forth	1
l	The Franchise Tax Board (FTB) shall a sources within this state pursuant to R may be amended during the contract p	&TC Section 25110							
l <b>l</b>	The <b>ELECTOR</b> consents to the taking tance of subpoenas duces tecum, both in R&TC Section 25110(b)(2)(B) are full	n as provided in R&T	C Section 25110(b)(2)(A), and agree						
PAR	TIES: The parties to this Cont	tract shall be the <b>FTI</b>	3 and				_, ELI	ЕСТ	OR
	Unless subject to a common-parent el separate contract.	ection, each taxpaye	r member of the water's-edge group	should	d file	its own	1		
	by this contract on Side 2. As the	e common parent of which are includable nes a member of the be deemed to have		ration t. ly pro	here	by con	tracts	for	
		MONTH DAY	YEAR						
PERI	the election can be made and shall calendar months) from that date.		e provided by statute or herein, contin	of the nue foi	incor seve	me yea en yea	ar for v rs (84	vhic	h
REN	automatically be extended for one y	ear (12 calendar mo	st ninety (90) days prior to the annive onths). The "anniversary date" shall be come year for which the election was	e defin	ed a	s the la			
TERI	MINATION: If the ELECTOR request contract to be terminated prior to the		pject to conditions as provided by stat m.	ute or	regu	ılation,	allow	this	;
JURI	SDICTION: This is a legally binding State of California and the jurisdicti		es arising under this contract shall be ourt of the State of California.	e subj	ect to	the la	ws of	the	
			Electing Corporation Name/Electing C	orpora	ition N	Number	_		
	Date		Signature of Officer of Electing	Corpo	ration	) 1			
			Print or type name and title of si	igning	Office	er			
	01011 5001	- 400 ME AND ATT	OUTO FORM 400 OR FORM 4000						

SIGN FORM 100-WE AND ATTACH TO FORM 100 OR FORM 100S KEEP A COPY FOR YOUR RECORDS

See page 6 for definition of Key Corporation.  EEN 01 accordable  Caltorina corporation number  EEN 01 accordable  Caltorina corporation number  Attach additional sheets if necessar	<b>Corporations Covered by the Water's-</b>	Edge Contract
set of corporations covered by the election  California corporation number  California corporation number  California corporation number  Attach additional sheets if necessar	Key California corporation name*	
See page 6 for definition of Key Corporation.  Attach additional sheets if necessar	Common parent name	FEIN (if applicable)
See page 6 for definition of Key Corporation.  Attach additional sheets if necessar	List of corporations covered by the election	California corporation number
	List of corporations covered by the election	California corporation number
	* See page 6 for definition of Key Corporation.	Attach additional sheets if necessar
Side 2 Form 100-WE c1 1999 100WE99209		

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CALIFORNIA FORM

## Notice of Nonrenewal of Water's Edge Contract

<b>19</b> □ ■ Notice of Nonrenewal of	f Water's-Edge Contract	1116			
Corporation name		Key California corporation number			
umber and street	PMB no.	Federal employer identification number (FEI			
ty, state, ZIP Code		<u> </u>			
☐ INDIVIDUAL TAX	PAYER NOTICE OF NONRENEWAL				
ereby notifies the Franchise Tax Board (FTB) of its intention	n not to renew its water's-edge contract wi	th the beginning date of			
MONTH DAY YEAR providing for a wa	ater's-edge election pursuant to Revenue a	nd Taxation Code (R&TC)			
, providing for a we	MONTH	DAY YEAR			
ection 25110. The last day of the income year for which th	e contract shall remain in effect is				
n order for nonrenewal of the water's-edge contract to be enust file a separate notice of nonrenewal of water's-edge contract.		dge election within the grou			
	0				
Date	Signature of Officer				
	Print or type name and title of si	gning Officer			
☐ COMMON PAR	ENT NOTICE OF NONRENEWAL				
common parent hereby notifies the FTB of its intention no	t to renew its contract with the beginning d	ate of			
	ater's-edge election pursuant to R&TC Sec	tion 25110.			
he last day of the income year for which the contract shall	remain in effect isDAY	YEAR .			
n order for nonrenewal of the water's-edge contract to be enust file a separate notice of nonrenewal of water's-edge or		dge election within the grou			
 Date	Signature of Officer				
offiliated taypayers included in the weter's edge group much	Print or type name and title of si	gning Officer			
ffiliated taxpayers included in the water's-edge group must  THIS FORM MUST BE FIL!	t be listed on the back of this form.  ED SEPARATE FROM THE TAX RETURN				
Mail separately to: FRANCHISE TAX BOARD PO BOX 1779					

RANCHO CORDOVA CA 95741-1779

Notice of Nonrenewal of Water's-Edge		
Key California corporation name*	<u> </u>	Key California corporation number
Common parent name	<u> </u>	FEIN (if applicable)
ist of corporations covered by the election	(	California corporation number
See page 6 for definition of Key Corporation.	Attach ad	ditional sheets if necessa
ide 2 FTB 1116 c1 1999 1116992	.09	

		AR

CALIFORNIA FORM

19 Request to Terminate Water's-Edge Election

1117
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	s I, II, III, and VII must be comp	leted in all cases.	
Part I Complete in all cases.		Collifornia :	lian nurri -
Corporation name (as reflected on original water's-edge return)		California corpora	uon number
Address (number and street)			PMB no.
			1112 1101
Dity	State		ZIP Code
Do not change the method of filing until it has b	een approved by the Franchiso	e Tax Board (FTB).	
Request to terminate the water's-edge MONTH DAY YE election effective for income year ending	EAR		
MONTH DAY	YEAR		
Current expiration date of the water's-edge election			
Part II Complete in all cases.			
1. This is a request to terminate the water's-edge election ; or			
2. This is a request for the FTB's permission to terminate the water's-edge	election .		
3. Basis for request to terminate the election, see instructions (attach addi	tional sheets if necessary)		
Suois for roquest to terminate the election, see metractions (attach add)	tional onotion in hoodoodly).		
Part III Complete in all cases.			
List Taxpayers Currently Covered by Original Contract	List Taxpayers Rec	juesting to Terminate El	ection
-			
	-		
THIS FORM MUST BE FILED SEP	PARATE FROM THE TAX RET	URN	
This i still most be tiled bet			
See instructions on page 17 for more information.			

Parts IV, V, and VI apply only if you are requesting permission to terminate the election. Otherwise, go to Part VII.  Part IV Complete only by taxpayers requesting permission to terminate the election.  Provide a list of all gains or losses on stock or assets during the water's-edge election period of any affiliated banks or corporations included in the						
combined report prior to the water's- Bank or Corporation Name	combined report prior to the water's-edge election. See Part VI.  Bank or Corporation Name Item Disposed Of Date Sold/Disposed Of Gain/Loss					
Dank of Gorporation Name	itelii Disposeu Oi	Date Sulu/Dispuseu Oi	udiii/Luss			
Part V Complete only by taxpaye	ers requesting permission to termina Tay As	te the election. Computed				
Income Year Ended	Water's-Edge Method	Worldwide Method	Difference			
	Trator o Zugo momou		2			
	tations, estimates, and assumptions requesting permission to terminate					
Conditions:	requesting permission to terminate	IIIC CICCIOII.				
	e an election is subject to the followin	u				
ing period of the contract from affiliated banks or corporations included in the water's-edge coreport will be considered to have paid first out of the earnings are profits (E&P) not included in the combined report of a unitary befor purposes of computing any allowable dividend exclusion un R&TC Section 25106. To the exclusion dividends exceed such E&P, the be subject to the exclusion.  2. Gain(s) on distribution with restock that is not a dividend or a sale or other disposition of ass	1. Dividends received during the remaining period of the contract from affiliated banks or corporations not included in the water's-edge combined report will not be deferred or eliminated. Loss(es) from the sale or other disposition of assets of affiliated banks or corporations not included in the water's-edge combined report will be included in the first return filed after permission is granted. Loss(es) will be included only to the extent of gain(s) recognized as a result of the canning any allowable dividend exclusion under R&TC Section 25106. To the extent the dividends exceed such E&P, they may be subject to the exclusion.  2. Gain(s) on distribution with respect to stock that is not a dividend or from the sale or other disposition of assets received during the remaining period of					
By signing this form, the taxpayers requesting permission to terminate the water's-edge election agree to the four conditions listed above.  Part VII Signature and Verification. Complete in all cases.						
<ol> <li>I attest to the accuracy of factual statments.</li> <li>I attest to the belief that the termination of the water's-edge election is permitted by law.</li> <li>I agree to the terms and conditions for all affected taxpayers.</li> <li>Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge, it is true, correct, and complete.</li> </ol>						
Signature of off	ficer	Title	Date			
Date to the second	(	) Talar barra				
Print or type name of personal thin form congrete from the tay.		Telephone				
Mail this form separate from the tax FRANCHISE TAX BOARD PO BOX 1779 RANCHO CORDOVA A 95741-177						

## **Instructions for Form FTB 1117**

Request to Terminate Water's-Edge Election

## **General Information**

## **Purpose**

Use form FTB 1117 to request to terminate the water's-edge election or to request the FTB's permission to terminate the water'sedge election.

R&TC Section 25111 provides how and when the water's-edge election is to be made. In addition, this section provides the manner in which the water's-edge election may be terminated at any time prior to the expiration of the contract period. The election may be terminated if the taxpayer requests:

- To terminate the election: or
- The FTB's permission to terminate the election.

The taxpaver should clearly state under which criteria it is requesting the termination and the specific facts involved.

## **Specific Instructions**

## **Request to Terminate**

Part II, Line 1

An electing water's-edge taxpayer may terminate its water's-edge election if it is acquired directly or indirectly by an unrelated nonelecting entity that is larger than the taxpayer in terms of equity capital.

In the case of termination by reason of acquisition by a larger entity, the request to terminate an election will affect only the member of the water's-edge group making the request.

## **Permission to Terminate**

Part II, Line 2

In general, the request for permission to terminate the water's-edge election will be granted only if the taxpayer demonstrates that the requirement to file returns on a water'sedge basis, rather than on a worldwide combined basis, for the unexpired term of the contract will result in a significant disadvantage to the taxpayer and that such disadvantage is the consequence of an extraordinary and significant event that could not have been reasonably anticipated at the time the original election was made.

An example of an event that could be considered extraordinary and significant includes, but is not limited to, a change in ownership or affiliation.

A taxpayer requesting permission to terminate the water's-edge election by reason of change in ownership or affiliation must request permission to terminate no later than the due date of the return, including extension, for the income year immediately succeeding the income year in which the change in ownership or affiliation occurred.

The basis for permission to terminate the water's-edge election must be in writing and must state the reason(s) for the request. In addition, the statement should explain why filing on the water's-edge combined basis results in a significant disadvantage to the taxpayer and how such disadvantage is the consequence of an extraordinary and significant event that could not have been reasonably anticipated at the time the original election was made.

A significant disadvantage will occur when the tax under water's-edge reporting is materially more than the tax under worldwide reporting for the remaining life of the election. Any assumptions, estimates, and computations made to determine such material difference must be included with the request for permission to terminate the election. . Taxpayers requesting permission to terminate must complete Part IV and Part V of form FTB 1117.

## **Basis for Request to Terminate**

Part II, Line 3

Provide a detailed explanation of the basis for your request to terminate.

When a taxpayer was acquired directly or indirectly by a larger non-electing, non-affiliated entity requests termination of a water's-edge election, the explanation for the basis to terminate the election should include all of the following:

- The name of the acquiring corporation;
- The date of acquisition; and
- A schedule showing the equity capital for the taxpayer and the acquiring corporation as shown on their balance sheets for the period immediately preceding the date of acquisition. (Note: For this purpose, equity capital includes issued stock of any class. paid in capital, and retained earnings or earned surplus.)

## **Changing an Election**

A request for permission to terminate an election under Part II, line 2 of this form is subject to the conditions outlined in Part VI of form FTB 1117.

## **Action on Request**

Within 90 days of receiving a request to terminate the water's-edge election, the FTB will either act on the request or advise the taxpayer what additional information is needed to consider the request. Upon receiving the additional information requested, the FTB will act on the request within 90 days.

If the FTB takes no action or requests no additional information, a request to terminate the water's-edge election under Part II, line 1

of this form is deemed allowed when the 90-day period expires unless this time period is specifically extended by the taxpayer.

If the FTB takes no action or requests no additional information, a request for permission to terminate the water's-edge election under Part II, line 2 of this form is deemed disallowed when the 90-day period expired unless this time period is specifically extended by the taxpayer.

The taxpayer may withdraw its request at any time before the FTB takes action.

## **Effective Date**

The effective date of a terminated election varies depending on whether the taxpayer is requesting to terminate or requesting permission to terminate and the basis for the change. A terminated election, based on acquisition by a larger entity, is effective for the succeeding income year.

In general, requests for permission to terminate the water's-edge election are effective for the first succeeding income year after the income year in which the qualifying event occurred.

The FTB may grant the change effective for a later income year. However, requests will not be allowed retroactively.

For additional information, refer to R&TC Section 25111 and the regulations thereunder.

## **Due Date of Form FTB 1117**

Any request to terminate an election described in Part II, line 1 and any request for permission to terminate an election by reason of change in ownership or affiliation must be filed with the FTB no later than the due date. including extensions, of the return for which the termination would be effective. Other requests for permission to terminate an election described in Part II, line 2 may be filed at any time. However, requests cannot be applied retroactively.

## Where to Mail

A taxpayer must file form FTB 1117, Request to Terminate Water's-Edge Election, separate from any other form. Form FTB 1117 filed with a return is not valid and will not terminate a taxpayer's water's-edge election.

Mail form FTB 1117 to:

FRANCHISE TAX BOARD PO BOX 1779 RANCHO CORDOVA CA 95741-1779

For more information, see R&TC Section 25111 and the regulations thereunder.

## **Instructions for Form FTB 2416**

Schedule of Included Controlled Foreign Corporations (CFC)

## **General Information**

## **A Purpose**

R&TC Section 25110(a)(6) provides that the income and apportionment factors of any CFC (as defined in IRC Section 957) that has Subpart F income (defined in IRC Section 952) are to be included in the combined report of a taxpayer making a water's-edge election.

Use form FTB 2416 to compute the net income and apportionment factors required to be included in the water's-edge combined report.

## B Controlled Foreign Corporation

In general, a foreign corporation is a corporation that is not created or organized in the U.S. or under the laws of the U.S. or any state

A CFC is any foreign corporation that is more than 50% owned or considered to be owned (per IRC Section 958(b)) by U.S. shareholders.

## **C** Apportionment

For each CFC, the amounts included in income and the apportionment factors are determined by multiplying the total income and each component of the apportionment factors by a fraction. The numerator of the fraction is the current year total Subpart F income defined in IRC Section 952 and the denominator is the current year E&P as defined in IRC Section 964.

See R&TC Section 25110(a)(6) and the regulations thereunder for more information.

## **Specific Instructions**

## Column (b) -Country of incorporation

Enter the country of incorporation in column (b). Use the list of country codes on page 20.

## Column (c) -Country of primary business activity

Enter the country in which the CFC conducts its primary trade or business in column (c). Use the country codes listed on page 20. This country may be different from the country of incorporation.

## Column (d) -Principal business activity (PBA) code

Enter the PBA code of the CFC. The PBA codes are listed on page 17 through page 19 of the 1999 Form 100, California Corporation Franchise or Income Tax Booklet, and on page 21 through page 23 of the 1999

Form 100S, California S Corporation Franchise or Income Tax Booklet. The new PBA codes are 6 digits not 4 digits.

## Column (e) -Subpart F income

In determining whether a bank or corporation has Subpart F income, defined By IRC Section 952, for purposes of R&TC Section 25110(a)(6) and the Regulations thereunder, the limitation and exclusions provided for in IRC Section 954(b) shall apply. However, IRC Section 952(c) shall not apply.

For these purposes, Subpart F income does not include income defined in IRC Sections 955, 956, or 956A.

Include both business and nonbusiness income as defined under R&TC Section 25120 for the current year.

If there is no Subpart F income for California purposes, STOP. None of the income or factors of this CFC will be included in the water's-edge combined report.

## Column (f) –Current year earnings and profits (E&P)

E&P, as defined in IRC Section 964, includes both business and nonbusiness income for the current year. In most cases, this figure can be taken from federal Form 5471, Information Return of U.S. Persons with Respect to Certain Foreign Corporations, Schedule H, line 5d.

If there is no current E&P, STOP. None of the income or factors of this CFC will be included in the water's-edge combined report.

### Column (g) -Percentage

The percentage may not exceed 100 or be less than zero.

## Column (h) -Net income

Report the total net income as reflected on the CFC's books and records, adjusted to conform to California tax law.

## Columns (j), (l), (n), and (p) -Apportionment factors

Determine the apportionment factors for the CFC to be included in the water's-edge combined report including total average property everywhere, rent expense everywhere, payroll everywhere, and sales everywhere based on the apportionment factor rules set forth in R&TC Sections 25129 through 25137. See Schedule R, Apportionment and Allocation of Income, for more information.

1999

## Schedule of Included Controlled Foreign Corporations (CFC)

2416

Corp	oration name									California co	orporation number
		(a) poration name		(b) Country of incorporaton	(c) Country of pri- mary bus. activity	(d) Principal bus. activity code	<b>(e)</b> Subpart F i		(f) Current year earning:		(g) Percentage (e) ÷ (f)
_	Cor	poration name		incorporaton	mary bus. activity	activity code	Subpart F i	ncome	Current year earning:	and profits	Percentage (e) ÷ (f)
1											
2											
3											
4											
5											
6											
7											
8											
9											
	(h) Net income	(i) (g) x (h)	(j) Average p everyw	roperty rhere	<b>(k)</b> (g) x (j)	(I) Rent expense x 8	(m) (g) x (l)	(n) Payroll everywhe	( <b>o</b> ) ere (g) x (n)	(p) Sales everyv	( <b>q</b> ) where (g) x (p)
1											
2											
3											
4											
5											
6											
7											
8											
9	TOTAL										

## **Alphabetic Listing of Countries and Codes for Form FTB 2416**

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Bassas de India								Sri LankaCE
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Belgium								Suriname
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## 1999 Water's-Edge Foreign Investment Interest Offset

2424

	ach this form to the back of Form 100 or Form 100S.	Key Cal	ifornia	corporat	ion numb	
	R&TC Section 24411 dividend deduction from Form 100, Side 1, line 11; or Form 100S, Side 1, line 10.  See instructions  If line 1 is zero, this offset is zero. Do not complete this form.  Total interest expense	1 2		·		
3	Interest expense specifically assignable to foreign investment	3	_			
4	Interest expense specifically assignable to domestic investment or other property	4	_			
5	Unassigned interest expense, add line 3 and line 4, and subtract from line 2	5	_			
6	Unassigned interest expense from line 5, paid on debt incurred prior to January 1, 1988	6	+			
7	Unassigned interest expense from line 5, paid on new debt incurred on or after January 1, 1988	7	+			
8	Interest expense included in line 7, paid with respect to debt proceeds deposited in restricted accounts	8	+			
9	Subtract line 8 from line 7	9	_			
10	Unassigned interest expense subject to allocation. Add line 6 and line 9	10		/////	/////	/////
11	Unassigned foreign investment	_///				
12	Unassigned total assets	_///				
13	Percentage. Divide line 11 by line 12					
14	Interest expense allocated to foreign investment. Multiply line 10 by line 13	14				
15	Interest expense attributable to foreign investment. Add line 3 and line 14	15	-			
	Enter the amount from line 1 or line 15, whichever is less	16				

Note: The remaining interest expense is subject to the provisions of R&TC Section 24344(b).

## **Instructions for Form FTB 2424**

## Water's-Edge Foreign Investment Interest Offset

## **General Information**

R&TC Section 24344(c) provides that interest expense incurred for purposes of foreign investment (as defined below) may be offset against the foreign dividend deduction allowed under R&TC Section 24411. The foreign investment interest offset may not exceed the total foreign dividend deduction allowed for the income year.

The amount of interest expense subject to the foreign investment interest offset is equal to the amount of interest expense specifically assigned to foreign investment plus the amount of unassigned interest expense allocated to foreign investment. Unassigned interest expense is allocated by formula. The amount of the offset is limited to the lesser of:

- Either interest expense specifically assigned or allocated to foreign investment; or
- · The foreign dividend deduction.

This limited amount is multiplied by 75% to arrive at the foreign investment interest offset. Interest expense that exceeds the offset amount will be subject to the standard interest offset computation of R&TC Section 24344(b).

**Note:** If there is no foreign dividend deduction, then no foreign interest offset computation is necessary.

## **A Definitions**

### 1. Foreign investment

Foreign investment is stock or other equity investment, regardless of when it was acquired, in:

- An entity whose dividends would be qualifying dividends for purposes of R&TC Section 24411; and/or
- A non-affiliated bank or corporation that is organized under the laws of a country or political subdivision of a country other than the U.S.

## 2. Interest expense assigned to specific property

If the existence of all of the facts and circumstances described below is established, interest expense is considered to be related solely to specific property. Specific property may be either a foreign investment, domestic investment, or other property.

- The indebtedness on which the interest was paid was specifically incurred for the purpose of purchasing, maintaining, or improving the specific property;
- The proceeds of the borrowing were actually applied to the specified purpose; and

 The creditor can look only to the specific property (or any lease or other interest therein) as security for payment of the principal and interest of the loan and, thus, has no secured interest in any other property of the borrower or the borrower itself with respect to repayment of the loan.

Even though the above facts and circumstances are present in substance as well as form, a deduction for interest will not be considered definitely related to a specific property where the motive for structuring the transaction in the manner described above was without any economic significance.

## 3. Unassigned interest expense Interest expense paid that does not meet

the above conditions to be assigned, is unassigned interest expense.

4. Interest expense on restricted accounts
Interest expense on restricted accounts is
interest expense paid on new debt incurred
on or after January 1, 1988, if the
proceeds of the debt are deposited into an
account that prevents its use for foreign
investment and the account is not, in fact,
used for foreign investment. However, debt
shall not be treated as incurred on or after
January 1, 1988, if the majority of the
proceeds were used to refinance debt
incurred prior to January 1, 1988, or the
debt arises pursuant to a line of credit or
similar arrangement.

### 5. Total assets

Total assets means all of the assets of a bank or corporation included in a water's-edge combined report by reason of R&TC Section 25110, after the elimination of intercompany accounts of assets.

## 6. Average values of assets

An average of values is computed for the year on the basis of values of assets at the beginning and the end of the year.

## **B** Asset Values

Assets and stock or other equity investments with less than 50% ownership are taken into account at the federal tax book value (original cost for federal tax purposes less depreciation, amortization, or depletion).

Stock or other equity investments with more than a 50% ownership are taken into account at adjusted basis for federal tax purposes:

 Increased by the amount of the E&P of such bank or corporation attributable to such stock or other equity investment and accumulated during the period the stock or other equity investment was owned by another affiliated bank or corporation; and  Reduced (but not below zero) by any deficit in E&P of such bank or corporation attributable to such stock or other equity investment for such period.

For more information, see R&TC Section 24344(c) and the regulations thereunder.

## **Specific Instructions**

#### Line 1

Enter the Water's-Edge Dividend Deduction claimed on Form 100, line 11; or Form 100S, line 10.

#### line 2

Enter total interest expense for all entities included in the water's-edge combined report filed pursuant to R&TC Section 25110, net of intercompany interest expense.

#### Line 3

Enter the interest expense specifically assignable to foreign investments. See R&TC Section 24344(c) and the regulations thereunder for further information.

#### Line 4

Enter the interest expense specifically assignable to domestic investments or other property.

#### Line 6

Enter unassigned interest expense included in line 5 that is for debt incurred prior to January 1, 1988.

#### Line 7

Enter unassigned interest expense included in line 5 for debt incurred on or after January 1, 1988.

### Line 8

Enter interest expense paid on restricted accounts.

## Line 11

Unassigned foreign investment is the average value of all foreign investment to which interest is not specifically assigned.

#### Line 12

Unassigned total assets is the average value of all assets to which interest is not assigned.

#### Line 13

In calculating the ratio, foreign investment and assets to which interest expense has been specifically assigned are not to be considered.

**Note:** If the taxpayer reported the foreign dividend deduction for dividends received from foreign investments and foreign construction projects, the taxpayer must calculate a separate foreign investment interest offset for each component. The two separately calculated amounts are then added together and entered on Schedule R, Side 1, line 1b and Schedule R-5, Side 3, line 2.

## **How To Get California Tax Information**

## Where To Get Income Tax Forms

**By Internet** –If you have Internet access, you may download, view, and print 1999 California income tax forms, instructions, and publications. Legal Notices and Rulings dated 96-1 and later are also available. Go to our website at: **www.ftb.ca.gov** 

By phone -To order 1999 California tax forms:

- Refer to the list in the right column and find the code number for the form you want to order.
- Call (800) 338-0505 from within the United States.
- Call (916) 845-6600 from outside the United States (not toll-free).
- Select business entity tax information.
- Select order tax forms.
- Enter the three-digit code shown to the left of the form title when you are instructed to do so.

Please allow two weeks to receive your order. If you live outside California, please allow three weeks to receive your order.

For prior year California tax forms, call our toll-free number listed under "General Toll-Free Phone Service."

In person –Most libraries, post offices, and banks provide free California personal income tax booklets during the filing season. Many libraries and some quick print businesses have forms and schedules for you to photocopy (you may have to pay a nominal fee). Note that employees at libraries, post offices, banks, and quick print businesses cannot provide tax information or assistance.

By mail —Write to: TAX FORMS REQUEST UNIT, FRANCHISE TAX BOARD, PO BOX 307, RANCHO CORDOVA CA 95741-0307.

## Letters

If you write to us, be sure to include your California corporation number or federal employer identification number, your daytime and evening telephone numbers, and a copy of the notice with your letter. Send your letter to:

FRANCHISE TAX BOARD PO BOX 942857 SACRAMENTO CA 94257-0540

We will respond to your letter within six to eight weeks. In some cases, we may need to call you for additional information. Do not attach correspondence to your tax return unless the correspondence relates to an item on the return.

## **General Toll-Free Phone Service**

**Between January 3 –April 17, 2000**, our general toll-free phone service is available:

- Monday -Friday, 6 a.m. until midnight; and
- Saturdays and holidays, 7 a.m. until 4 p.m.

After April 17, 2000, our general toll-free phone service is available:

- Monday –Friday, 7 a.m. until 8 p.m.; and
- Saturdays, 7 a.m. until 4 p.m.

The best times to call are before 10 a.m. and after 6 p.m. All times listed are Pacific Standard Time (PST).

## Assistance for persons with disabilities

The FTB complies with provisions of the Americans with Disabilities Act. Persons with hearing or speech impairment call:

From voice phone (California Relay Service) . . . . . . . (800) 735-2922 From TTY/TDD (Direct line to FTB customer service) . (800) 822-6268 For all other assistance or special accommodations . . (800) 852-5711

#### Asistencia bilingue en espanol

Para obtener servicios en espanol y asistencia para completar su declaración de impuestos/formularios, llame al numero de telefono (anotado arriba) que le corresponde.

## California Tax Forms and Publications

- 817 California Corporation Tax Forms and Instructions.
  This booklet contains: Form 100, California Corporation
  Franchise or Income Tax Return; and the following forms which
  are also available separately:
  - 821 Schedule P (100), Alternative Minimum Tax and Credit Limitations —Gorporations
  - 822 FTB 3885, Corporation Depreciation and Amortization
  - 807 FTB 3805Q, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations —Gorporations
  - 808 FTB 3539, Payment Voucher for Automatic Extension for Corporations and Exempt Organizations
- 816 California S Corporation Tax Forms and Instructions.
  This booklet contains: Form 100S, California S Corporation
  Franchise or Income Tax Return; Schedule QS, Qualified
  Subchapter S Subsidiary (QSub) Information Worksheet; and the
  following forms which are also available separately:
  - 823 Schedule B (100S), S Corporation Depreciation and Amortization
    Schedule C (100S), S Corporation Tax Credits
    Schedule H (100S), Dividend Income
    Schedule D (100S), S Corporation Capital Gains and Losses and Built-In Gains
  - 825 Schedule K-1 (100S), Shareholder's Share of Income, Deductions, Credits, etc.
  - 826 FTB 3830, S Corporation's List of Shareholders and Consents
  - 808 FTB 3539, Payment Voucher for Automatic Extension for Corporations and Exempt Organizations
- 814 Form 109, Exempt Organization Business Income Tax Return
- 818 Form 100-ES, Corporation Estimated Tax
- 813 Form 100X, Amended Corporation Franchise or Income Tax Return
- 815 Form 199, Exempt Organization Annual Information Return
- 819 Schedule R. Apportionment and Allocation of Income
- 812 FTB Pub. 1038, Guide for Corporations Dissolving, Withdrawing or Merging
- 805 FTB Pub. 1038A, Instructions for Exempt Organizations Requesting a Tax Clearance Certificate
- 809 FTB Pub. 1060, Guide for Corporations Starting Business in California
- 810 FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report
- 827 Form 100-WE, Water's-Edge Booklet
- 829 FTB 3564, Authorization of Agent Under Revenue and Taxation Code Section 19141.6
- 820 FTB Pub. 1068, Exempt Organizations Requirements for Filing Returns and Paying Filing Fees
- 802 FTB 3500, Exemption Application
- 803 FTB 3555, Request for Tax Clearance
- 804 FTB 3557, Application for Revivor
- 811 FTB 3560, S Corporation Election or Termination/Revocation
- 806 FTB 5806, Underpayment of Estimated Tax by Corporations
- 800 FTB Pub. 1028, Guidelines for Homeowners' Associations
- 801 FTB Pub. 1075, Exempt Organizations —Guide for Political Organizations
- 832 FTB 3555A, Request for Tax Clearance for Exempt Organizations

## **Your Rights As A Taxpayer**

Our goal at the FTB is to make certain that your rights are protected so that you will have the highest confidence in the integrity, efficiency, and fairness of our state tax system. FTB Pub. 4058, California Taxpayers' Bill of Rights, includes information on your rights as a California taxpayer, the Taxpayers' Rights Advocate Program, and how you can request written advice from the FTB on whether a particular transaction is taxable.

See 'Where to Get Income Tax Forms' on this page.

## Automated Toll-Free Phone Service

## (Keep This Booklet For Future Use)

Our automated toll-free phone service is available 24 hours a day, 7 days a week, in English and Spanish to callers with touch-tone telephones. To order business entity forms, the automated service is available from 6 a.m. to 8 p.m. Monday through Friday, except state holidays. You can:

- · Order current year California income tax forms, and
- Hear recorded answers to many of your questions about California taxes.

Have paper and pencil ready to take notes.

Call from within the United States		(800	338-0505
Call from outside the United States	(not toll-free)	(916	845-6600

## **To Order Forms**

See "Where to Get Income Tax Forms" on the previous page.

## **To Get Information**

If you need an answer to any of the following questions, call (800) 338-0505, select business entity tax information, then general tax information, follow the recorded instructions, and enter the three-digit code when instructed to do so.

### **Code Filing Assistance**

- 715 If my actual tax is less than the minimum franchise tax, what figure do I put on line 23 of Form 100?
- 717 What are the current tax rates for corporations?
- 718 How do I get an extension of time to file?
- 722 When do I have to file a short-period return?
- 734 Is my corporation subject to franchise tax or income tax?

#### **S** Corporations

- 704 Is an S corporation subject to the minimum franchise tax?
- 705 Are S corporations required to file estimate payments?
- 706 What forms do S corporations file?
- 707 The tax for my S corporation is less than the minimum franchise tax. What figure do I put on line 22 of Form 100S?
- 708 Where do S corporations make adjustment for state and federal law differences on Schedule K-1 (100S) and where do nonresident shareholders find their California source income on their Schedule K-1 (100S)?

## **Exempt Organizations**

- 709 How do I get tax exempt status?
- 710 Does an exempt organization have to file Form 199?
- 735 How can an exempt organization incorporate without paying corporation fees and costs?
- 736 I have exempt status. Do I need to file Form 100 or Form 109 in addition to Form 199?

### **Minimum Tax and Estimate Tax**

- 712 What is the minimum franchise tax?
- 714 My corporation is not doing business; does it have to pay the minimum franchise tax?
- 716 When are my estimate payments due?

#### Billings and Miscellaneous Notices

- 723 I received a bill for \$250. What is this for?
- 728 Why was my corporation suspended?
- 729 Why is my subsidiary getting a request for a return when we file a combined report?

#### Tax Clearance

- 724 How do I dissolve my corporation?
- 725 What do I have to do to get a tax clearance?
- 726 How long will it take to get a tax clearance certificate?
- 727 My corporation was suspended/forfeited. Can I still get a tax clearance?

#### Miscellaneous

- 700 Who do I need to contact to start a business?
- 701 I need a state ID number for my business. Who do I contact?
- 702 Can you send me an employer's tax guide?
- 703 How do I incorporate?
- 719 How do I properly identify my corporation when dealing with the Franchise Tax Board?
- 720 How do I obtain information about changing my corporation's name?
- 721 How do I change my accounting period?
- 737 Where do I send my payment?
- 738 What is electronic funds transfer?
- 739 How do I get a copy of my state corporate tax return?
- 740 What requirements do I have to report municipal bond interest paid by a state other than California?
- 750 How do I organize or register an LLC?
- 751 How do I cancel my registration as an LLC?
- 752 What tax forms do I use to file as an LLC?
- 758 If a corporation converted to an LLC during the current year, is the corporation liable for tax as a corporation and an LLC tax/fee in the same year?

## **Field Offices**

You can get information, pick up California tax forms, and resolve problems on your account if you visit one of our field offices. FTB field office locations are open Monday through Friday from 8 a.m. to 5 p.m. The offices will remain open additional hours and days January 15 through April 17, 2000. For the extended hours of the office nearest you call (800) 338-0505, select personal income tax information, then select general information, and enter code 110 when instructed.

Field Office	Address
Bakersfield	1800 30th St., Ste. 370
Burbank	333 N. Glenoaks Blvd., Ste. 200
Fresno	2550 Mariposa St., Rm. 3002
Long Beach	4300 Long Beach Blvd., Ste. 700B
Los Angeles	300 S. Spring St., Ste. 5704
Oakland	1515 Clay St., Ste. 305
Sacramento	3321 Power Inn Road, Ste. 250
San Bernardino	464 W. 4th St., Ste. 454
San Diego	5353 Mission Center Road, Ste. 314

San Francisco 455 Golden Gate Avenue, Ste. 7400 San Jose 96 N. Third St., 4th Floor

Santa Ana 600 W. Santa Ana Blvd., Ste. 300

Santa Rosa 50 D St., Rm. 130

Stockton 31 East Channel St., Ste. 219
Ventura 4820 McGrath St., Ste. 270
West Covina 100 N. Barranca St., Ste. 600

### **Out of State Offices**

Chicago 1 N. Franklin, Ste. 400

Chicago, IL 60606-3401
Houston 1415 Louisiana, Ste. 1515
Houston, TX 77002-7351
Long Island 1325 Franklin Avenue, Ste. 560

Garden City, NY 11530

Manhattan 1212 Avenue of the Americas, 4th Floor

New York, NY 10036-1601